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Plaintiff in Pro Per

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NOV 29 2012

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Joseph A. Guerra,
Plaintiff,
vs.

JUST MORTGAGE, INC.; CHASE HOME
FINANCE, LLC; MERS and
DOES 1-10,
Defendants.

) Case No.: 2:10-cv-00029-KJD-RJJ
)
) **RESPONSE TO DEFENDANTS CHASE/
) MERS OBJECTION TO PLAINTIFF'S
) REQUEST FOR JUDICIAL NOTICE
) (Doc.#129)**

I recently received the "OBJECTION OF DEFENDANTS JP MORGAN
CHASE BANK, N.A. AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS,
INC. TO PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE" by mail.¹

Evidently these Defendants and their attorney(s) can't read
plain English. For their benefit my Request for Judicial Notice
plainly cited FRE 201(d) and its mandate "A court shall take
judicial notice if requested by a party and supplied with the
necessary information."² Do I really need to brief this court and
these Defendants on statutory construction and what exactly
"shall" means?³ This Rule seems to be unambiguous and this court
must assume the lawmakers mean what they said.⁴

Otherwise it seems to me Defendants CHASE/MERS' Objection
breaks down to these three points:

1. Defendants failed to request a hearing;
2. Defendants are wrong about Pasillas, Leyva and Edelstein; and
3. Discovery is the alternative on the Nardi Deposition.

"1. Defendants failed to request a hearing"

I do not see anywhere in their Objection that the Defendants provided any authority whatsoever for this court to summarily deny my judicial notice. Nor do I see where these Defendants actually requested a hearing on this matter. FRE 201(e) provides for that opportunity: **"On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard."**

It is a matter of law this court has already taken judicial notice. I will leave it up to the court's sound exercise of discretion whether or not it schedules and notifies the parties of a hearing on this matter.

"2. Defendants are wrong about Pasillas, Leyva and Edelstein"

Defendants said they:

"Object to Plaintiff's Request for Judicial Notice for several reasons. First, Plaintiff requests that the Court take judicial notice of three Nevada Supreme Court decisions, Pasillas v. HSBC Bank USA, Nev., 255 P.3d 1281 (2011), Leyva v. National Default Servicing Corp., Nev. 255 P.3d 1275 (2011), and Edelstein v. Bank of New York

1 Mellon, Nev. 286 P3d 249(2012). All of these decisions
2 relate to petitions for judicial review filed under
3 Nevada's Foreclosure Mediation Program ("**FMP**"), and are
4 thus irrelevant to the instant proceeding. Plaintiff has
5 not alleged that he ever participated in the **FMP**, and has
6 not raised any claims herein relating to the program."

7 These Defendants can only wish Pasillas, Leyva and
8 delstein can be so narrowly read and interpreted by this court.
9 Unfortunately for them they have far more impact on this case as
10 I have taken the trouble to explain the importance of Pasillas
11 and Leyva in my Motion for Leave to Amend⁵ and reminded you all
12 in my Motion to Strike.⁶ I even took the trouble to attach actual
13 copies from our Supreme Court website in both my First Request
14 and Second Request.⁷ Edelstien is relevant because **MERS** and the
15 importance of the instruments being joined for Defendants to
16 have an interest in them.

17 I cited these cases because I can read and reason, and even
18 I can see through the legalese and how important and relevant
19 they are here. I also need to say that Defendants CHASE/MERS and
20 their apparently incompetent legal professionals can't read at
21 least at my level is their problem.

22
23 **"3. Discovery is the alternative on the Nardi Deposition"**

24 Here, Defendants have Objected to the provided link to that
25 deposition testimony. For the sake of argument, and without
26 admitting the relevant parts of **FRE 201** gives this court the
27

leeway to accept their objections, the obvious alternatives are that the Defendants provide true copies of:

1. The schedule of loans created to represent either the loans that were asset loans or the loans that were serviced by Washington Mutual (**WAMU**);
2. The database of loans created to represent either the loans that were asset loans or the loans that were serviced by (**WAMU**);
3. Anything else showing transfer of ownership from Just Mortgage, Inc. to Washington Mutual (**WAMU**) and from Washington Mutual (**WAMU**) to Chase, specifically, endorsements or legal assignments.

Also, I did mention on request that I would contact the court reporter shown for a certified/authenticated copy of the full transcript. I do not see where these Defendants made any such request. Discovery seems to be the reasonable alternative if the court rejects the link to the Nardi Deposition and inadmissible.

I expressly reserve the right to amend or supplement this Response if I believe it is needed. I also reserve my right to have the court construe this paper according to **FRBP 1001** and **7008(a)** by its inclusion of **FRCP 8(e)**.

¹See Docket #129

²Docket #125; boldface is my emphasis added to the quoted text

³ "Has a duty to; more broadly, is required to" - Black's Law Dictionary (8th ed. 2004), page 1407

⁴Connecticut National Bank v. Germain, 503 U.S. 249, 253-54 (1992): "courts

1
2 must presume that a legislature says in a statute what it means and means in
3 a statute what it says there. When the words of a statute are unambiguous,
then. . . 'judicial inquiry is complete.'"

4 ⁵Available to all on PACER beginning @ Case 2:10-cv-00029-KJD-RJJ Document 118
5 Filed 10/01/12 Page 3 of 9

6 ⁶PACER @ Case 2:10-cv-00029-KJD-RJJ Document 127 Filed 11/08/12 Page 3 of 18

7 ⁷See again generally Docket #125
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9

10 Submitted with all rights reserved on November 29, 2012
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12 Respectfully,
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16 Joseph A. Guerra, UCC 1-308
17 Plaintiff in Pro Per
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November 29, 2012
Date

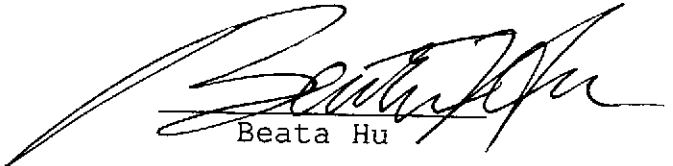
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing RESPONSE TO DEFENDANTS CHASE/MERS OBJECTION TO PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE on this 29th DAY OF November 2012, been timely forwarded to the address of counsel for Chase/Mers & counsels for Just Mortgage, Inc. Via U.S. Regular Mail with a copy of this pleading as follows:

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